

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION, *et al.*

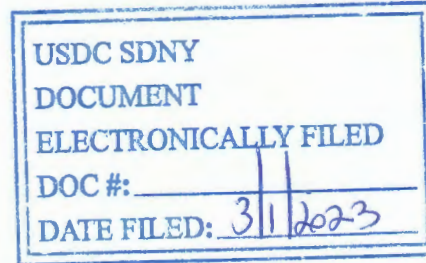
Plaintiffs,

v.

ROOMSTER CORP., *et al.*

Defendants.

Case No. 1:22-cv-7389



~~PROPOSED~~ AGREED ORDER GOVERNING ELECTRONIC DISCOVERY

The parties hereby stipulate to the following provisions regarding the discovery of electronically stored information ("ESI") in the above-captioned action. Nothing in this Agreed Order is intended to limit any of the parties' rights under, or prevent any party from asserting any objection to production consistent with, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Civil Rules for the Southern District of New York, and/or any other applicable law:

1. **Exchange of e-discovery materials.** On March 15, 2023, or on a date agreed upon by the parties in writing, the parties shall exchange the following information:
 - a. a list of each relevant electronic system that has been in place at all relevant times and a general description of each system, including the nature, scope, character, organization, and formats employed in each system;
 - b. a list of the most likely custodians of discoverable ESI in their possession, custody, or control, with custodians identified by name, title, and brief descriptions of each person's connection to the instant litigation and the type of information under his/her control;

c. the parties should also include other pertinent information about their electronic documents and whether those electronic documents are of limited accessibility, that is, those created or used by electronic media no longer in use, maintained in redundant electronic storage media, or for which retrieval involves substantial cost;

d. a general description of the party's electronic document retention policies;

e. a description of any problems reasonably anticipated to arise in connection with e-discovery.

2. **Search methodology.** Subject to Paragraph 3 below, if the parties intend to employ an electronic search to locate relevant electronic documents, the parties shall disclose, within 30 days of making such decision, any restrictions as to the scope and the method which might affect their ability to conduct a complete electronic search of the electronic documents. The parties shall reach agreement as to the method of searching, and the words, terms, and phrases to be searched with the assistance of those familiar with the parties' respective electronic systems. The parties shall also reach agreement as to the timing and conditions of any additional searches which may become necessary in the normal course of discovery.

3. **Format.** The parties agree that ESI will be produced to the requesting party with searchable text, in a format to be decided between the parties. For production to Plaintiffs, the FTC's production protocol is attached. However, to the extent that the FTC's production protocol differs from that in place during the FTC's prior investigation, the parties agree that in respect to any previously collected data, the production protocol in place during the FTC's prior investigation governs.

4. **Privilege.** If electronic documents containing privileged information or attorney work product appear on their face to have been inadvertently produced, the receiving party shall cease reviewing such documents and promptly notify opposing counsel. If the producing party

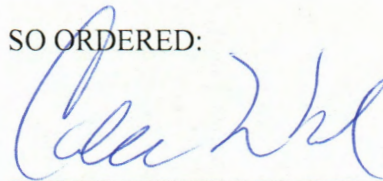
confirms or otherwise provides notice of the inadvertent production of electronic documents containing privileged information or attorney work product, those documents shall be promptly returned or destroyed by the receiving party.

5. **Costs.** The costs of discovery shall be borne by each party.

Dated: February 28, 2023
New York, New York

Upon consent of the parties, signatures of all counsel below.

SO ORDERED:



Hon. Colleen McMahon
United States District Judge

Respectfully submitted,

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